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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,722	02/28/2002	Paul Andrew Abraham	833.0168USQ	2418

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EXAMINER

PETERSON, KENNETH E

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/085,722

Applicant(s)

ABRAHAM ET AL.

Examiner

Kenneth E. Peterson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-8,10 and 14-32 is/are pending in the application.
- 4a) Of the above claim(s) 8,10 and 19-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-7 and 14-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 feb 02 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the first and second gear teeth of claim 1 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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At the end of claim 2 is the phrase "*wherein the first and second gears join the clipper head to the arm of the handle so that the clipper head pivots about the axis of rotation*". It is not clear what to make of this recitation. When the first and second gears are joined together, it *prohibits* rotation of the clipper head about the axis of rotation. Since the recited structure (joined gears) does not seem to enable the recited function (pivoting), it is not clear what weight to give this recitation.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamada.

Yamada shows a hair clipper with most of the recited limitations including a clipper head having two arms (3a,3b) with means (16) for placing the razor head in different predetermined positions. Yamada's razor head is *capable* of being pivoted by a force applied on the head's bottom flat surface opposite the cutting portion.

Yamada, as set forth above, shows a hair clipper with most of the recited limitations including reciprocating linear blades (32, figure 7). While such blades usually are comprised of one moving blade and one stationary blade, Yamada does not explicitly say as much. Examiner takes Official Notice that it is prevalent for such

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trimmer blades to comprise one reciprocating blade and one stationary blade. An example of such is the patent to Kubo '589 (22,23). Additional examples can be provided if needed. It would have been obvious to one of ordinary skill in the art to have made Yamada's trimmer have one moving blade and one stationary blade, as is prevalent and taught by Kubo, since this is an art recognized equivalent known for this purpose.

5. Claims 1-3,5-7 and 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamada in view of Hendrickson.

Yamada, as modified above or not, shows a hair clipper with all of the recited limitations except the gears and push button release mechanism. However, Hendrickson shows that it is well known for razor angle adjustment connectors to comprise two gears (14,24) and a push button release mechanism (32). Hendrickson's push button (32) is a resilient element that could be pressed to disengage one gear from the other.

It would have been obvious to one of ordinary skill in the art to have modified Yamada by replacing each of his connections with the connection of Hendrickson, since it has been held to be obvious to substitute equivalents known for the same purpose (see MPEP 2144.06).

6. Applicant's arguments have been fully considered but they are not persuasive. Applicant has overcome the 102b rejection by Yamada.

Applicant argues the 103 rejection by Yamada in view of Hendrickson, stating that Yamada is happy with his own arrangement of ball bearing and just three indents, and thus there is no motivation to alter it. Of course, motivation need not be explicitly set forth in the base reference. In this case, the secondary reference to Hendrickson teaches an alternative way of doing the same thing, namely by mating gear faces. The suggestion to modify comes from the fact that one of ordinary skill in the art would acknowledge these joints to be art-recognized equivalents.

Turning to MPEP 2144.06 SUBSTITUTING EQUIVALENTS KNOWN FOR THE SAME PURPOSE, there is a quote from the Smith v. Hayashi, 209 USPQ 754 (Bd. of Pat. Inter. 1980) "*The mere fact that phthalocyanine and selenium function as equivalent photoconductors in the claimed environment was not sufficient to establish that one would have been obvious over the other. However, there was evidence that both phthalocyanine and selenium were known photoconductors in the art of electrophotography. "This, in our view, presents strong evidence of obviousness in substituting one for the other in an electrophotographic environment as a photoconductor."*

To paraphrase the above, in this case, Yamada and Hendrickson are evidence that ball-and-indent joints and the mating-gear-faces joints were both known to pivotally mount cutting heads in the art of hair removal devices. This, in the Examiner's view, is strong evidence of obviousness in substituting one for the other in a hair removal device.

Further worth noting is In re Fout, 675 F.2d 297, 213 USPQ 532 (CCPA 1982), which stated "*An express suggestion to substitute one equivalent component or process for another is not necessary to render such substitution obvious*".

The above argument also applies to any modification of Yamada's reciprocating razor blades (figure 7), especially, since Yamada does not disclose any details about them.

Applicant argues that Yamada does not show a flat lever surface between the cutting edge and the end of the handle. It is not understood why Applicant argues this point, as the flat surface can be clearly seen on the bottom of figure 3, or on the back of the cutting head of figure 7.


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken Peterson whose telephone number is 571-272-4512. The examiner can normally be reached on Monday thru Thursday between 7:30am and 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached at 571-272-4514. In lieu of mailing, Applicants are encouraged to fax responses to 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. For more info on the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

kp
21-Jul-05



KENNETH E. PETERSON
PRIMARY EXAMINER